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08/963,720 11/04/97 MASCHEK

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EXAMINER

PM82/0227

LOUIS S JACQUES
ART UNIT PAPER NUMBER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 17

Application Number: 08/963,720
Filing Date: November 04, 1997
Appellant(s): MASCHEK, ETAL

MAILED

FEB 27 2001

GROUP 5500

Richard L. Mayer
(Reg. No. 22,490)
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed January 4, 2001.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-3 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,345,402 GIOUTSOS et al 9-1994

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3661

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 call for “simulating each of the signal segments using a respective transmission function” and “combining the transmission functions to form an overall transmission function...” It is not clear whether the “simulated signal segments” are being combined” or whether they become inputs to the overall transmission function. From the step of “splitting...” to the step of “combining...”, the step of “simulating ...” becomes “useless” since the result of the simulating step does not affect the steps of “combining” and “forming”.

3. Claims 1-3, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Gioutsos et al [5,345,402].

Gioutsos et al discloses a vehicle crash simulator system for testing crash sensors in which a signal of interest, i.e., acceleration/collision signal, is divided into a plurality of signal segments or portions. Gioutsos et al also discloses an algorithm or simulation for acting on each of the signal portions; combining the results of the simulation; and varying or evaluating the overall or combined function. There is also provided a filter for filtering the signal. See columns 2-5.

(11) Response to Argument

Claim 1 recites (a) deriving a core signal, (b) splitting the core signal into signal segments, (c) simulating each signal segments using a respective transmission function, (d) combining the transmission functions to form an overall transmission function, and (e) forming at least one descriptive collision signal.

It is not clear or clearly pointed out whether the outputs of each transmission function are being combined or whether the signal segments are being inputted to the overall transmission function.

On page 4 of the appeal, Appellant asserted that “with respect to the term “transmission function”, this is not a device having an input and output, but rather a mathematical description of as signal pattern ...”

The examiner agrees that the ‘transmission function’ is not a device. Even if the “transmission function” is a “mathematical description” it must be applied on some inputs.

For example, let's consider the “mathematical description” $F(x)$.

$F(x) = 3x^3 + 4x^2 + 5x + 10$. This function $F(x)$ can be expressed as

$F(x) = f_1(x) + f_2(x) + f_3(x)$, where $f_1(x) = 3x^3$; $f_2(x) = 4x^2$; and $f_3(x) = 5x + 10$.

Given a value $x = 2$; $F(2) = 3(2)^3 + 4(2)^2 + 5(2) + 10 = 24 + 16 + 10 + 10 = 60$

Or

$$f_1(2) = 3(2)^3 = 24$$

$$f_2(2) = 4(2)^2 = 16$$

$$f_3(2) = 5(2) + 10 = 20$$

$$F(2) = f_1(2) + f_2(2) + f_3(2) = 24 + 16 + 20 = 60$$

Art Unit: 3661

A mentioned above, the claim does not define whether each of the signal segments of their combination are being used in the overall transmission.

While a claim can be read in light of the specification, the claim must be clear so as to enable one skilled in the art to understand what is being claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As to the prior art rejection, Gioutsos et al discloses a signal indicative of a collision, splitting (breaking down) the signal into a plurality of signal segments; simulating the signal segments and modifying components of thereof.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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February 26, 2001



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